

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 85

HON. LEON SAVITCH, JUDGE

CHURCH OF SCIENTOLOGY OF CALIFORNIA,)

PLAINTIFF,)

VS.)

NO. C 420 153

GERALD ARMSTRONG, DOES 1 THROUGH 10,)
INCLUSIVE,)

DEFENDANTS.)

MARY SUE HUBBARD,)

INTERVENOR.)

AND RELATED CROSS-ACTION.)
_____)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

TUESDAY, APRIL 26, 1983

APPEARANCES:

(SEE APPEARANCE PAGE.)

COPY

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PAT STEVENSON, CSR NO. 1857
OFFICIAL REPORTER

1 APPEARANCES:

2 FOR PLAINTIFFS:

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9 FOR DEFENDANT:

10 CONTOS & BUNCH
11 BY: JULIA DRAGOJEVIC
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16 FOR THE INTERVENOR:

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1 LOS ANGELES, CALIFORNIA; TUESDAY, APRIL 26, 1983; 10:30 A.M.
2 DEPARTMENT NO. 86 HON. LEON SAVITCH, JUDGE
3
4

5 THE COURT: READY ON THE CHURCH OF SCIENTOLOGY VERSUS
6 ARMSTRONG?

7 MR. PETERSON: YES, YOUR HONOR.

8 JOHN PETERSON. I REPRESENT THE PLAINTIFF,
9 CHURCH OF SCIENTOLOGY.

10 MR. LITT: BARRETT S. LITT APPEARING FOR THE
11 INTERVENOR.

12 MS. DRAGOJEVIC: JULIA DRAGOJEVIC, CONTOS & BUNCH,
13 APPEARING ON BEHALF OF DEFENDANT AND RESPONDING PARTY.

14 THE COURT: ALL RIGHT.

15 WE HAVE HERE A WRIT OF POSSESSION BY THE
16 INTERVENOR, MARY SUE HUBBARD, AND A MOTION TO MODIFY A
17 PRELIMINARY INJUNCTION BY THE INTERVENOR AND THE PLAINTIFF.

18 I HAVE REVIEWED ALL OF THE DECLARATIONS, AND
19 I'M GOING TO RECEIVE THOSE INTO EVIDENCE BY REFERENCE TO
20 THOSE DECLARATIONS. THEY WILL BE RECEIVED INTO EVIDENCE.

21 NOW, AT THIS TIME IT APPEARS TO ME THAT WHAT I
22 AM BEING ASKED TO DO IS TO MODIFY JUDGE COLE'S ORDERS AS TO
23 THE POSSESSION OF THESE DOCUMENTS AND WHICH DOCUMENTS UNDER
24 JUDGE COLE'S ORDER HAVE BEEN IN POSSESSION OF THE CLERK OF
25 THIS COURT FOR EIGHT MONTHS.

26 NOW, IT APPEARS THAT JUDGE COLE AND I SORT OF
27 HAD THE SAME FEELING AT THE TIME OF GOING THROUGH THESE
28 DOCUMENTS THAT JUDGE COLE HAD WHEN I INITIALLY ADDRESSED

1 THIS, AND THAT IS THE OVERWHELMING NUMBER OF DOCUMENTS THAT
2 ARE BEING PRESENTED BY BOTH SIDES.

3 BUT JUDGE COLE MADE A DETERMINATION THAT IT
4 WOULD BE BEST IN THE INTERESTS OF THE PARTIES AND THE PUBLIC
5 THAT THESE DOCUMENTS REMAIN WITH THE CLERK.

6 AND IT APPEARS THAT EVEN JUDGE CONSUELO
7 MARSHALL THOUGHT THAT IN THE FEDERAL CASE. IN THE PETERSON
8 CASE, SHE REACHED THE CONCLUSION THAT THE PLAINTIFFS IN THAT
9 CASE MUST FOLLOW THE PROCEDURE THAT WAS SET UP BY JUDGE COLE
10 FOR THE APPOINTMENT OF A SPECIAL MASTER IN THIS CASE.

11 JUDGE COLE, IT APPEARS TO ME, CAREFULLY
12 STRUCTURED HIS ORDERS WITH RESPECT TO THE INSPECTION AND THE
13 THE USE OF THE DOCUMENTS, AND HE CAREFULLY LIMITED ACCESS TO
14 THOSE DOCUMENTS.

15 ON THE QUESTION OF WHO HAS THE RIGHT OF
16 POSSESSION, ON THE ONE HAND, THE DEFENDANT ARMSTRONG SAYS HE
17 HAS THE RIGHT OF POSSESSION AND HAS THE RIGHT OF POSSESSION
18 THROUGH HIS CONTRACTUAL RELATIONSHIP WITH L. RON HUBBARD AND
19 GARRISON.

20 AND WHEN I SEE THAT JUDGE COLE INITIALLY ISSUED
21 HIS ORDER, I SEE HE STATED THAT HE WAS IMPRESSED BY THE FACT
22 THAT MR. ARMSTRONG HAD SAID "SAVE THE DOCUMENTS FROM
23 DESTRUCTION" BECAUSE HE THOUGHT THAT THEY MIGHT BE DESTROYED
24 IF THEY HAD BEEN TURNED OVER TO THE CHURCH.

25 NOW, I AM NOT DRAWING IN MY OWN MIND THIS
26 DISTINCTION THAT IS DRAWN BY THE DEFENDANT AS TO THE CHURCH
27 OF SCIENTOLOGY OF CALIFORNIA. I DON'T DRAW THAT. IT MIGHT
28 BE ANY CHURCH.

1 BUT IT APPEARS TO ME THAT THE ANALYSIS THAT
2 JUDGE COLE MADE INITIALLY HASN'T CHANGED TOO MUCH, AND EVEN
3 WITH THE LETTER THAT CAME IN FROM MR. HUBBARD IN FEBRUARY,
4 THE DATE OF FEBRUARY 13TH, AND JUDGE COLE'S RESPONSE TO THAT
5 WHEN HE NOTIFIED THE ATTORNEYS WHO SENT THAT LETTER IN, THAT
6 IT WASN'T BY VIRTUE OF A MOTION AND THAT THERE IS NO MOTION
7 BEFORE HIM AND, THEREFORE, HE FELT THAT UNDER THOSE
8 CIRCUMSTANCES THAT PARTICULAR LETTER IS NOT NECESSARILY TO
9 BE ADDRESSED AT THAT POINT BY HIM.

10 MY INITIAL REACTION IS THAT THE PAPERS AND
11 DOCUMENTS ARE BEST TO STAY WITH THE CLERK AND THAT THAT IS
12 IN THE INTERESTS OF THE PARTIES AND IN THE INTERESTS OF THE
13 PUBLIC WHICH I THINK IS INVOLVED HERE, ALSO.

14 WITH THAT IN MIND, HAVING READ THESE DOCUMENTS,
15 I'LL HEAR FROM YOU.

16 MR. LITT: THANK YOU, YOUR HONOR.

17 LET ME BEGIN FIRST WITH A COUPLE OF COMMENTS ON
18 POINTS THAT YOU RAISED.

19 I DO WANT TO POINT OUT THAT MRS. HUBBARD WAS
20 NOT IN THE CASE AT THE TIME OF ANY OF THE PRIOR RULINGS BY
21 JUDGE COLE, NEVER PARTICIPATED IN ANY OF THOSE MATTERS, WAS
22 NOT A PLAINTIFF IN THE ORIGINAL TEMPORARY RESTRAINING ORDER
23 OR PRELIMINARY INJUNCTION, AND THE FACTS THAT WE HAVE
24 PRESENTED WITH RESPECT TO HER RIGHT TO POSSESSION HAVE NEVER
25 BEEN PRESENTED TO ANY COURT IN THIS FILE UP TO NOW.

26 WE CONSIDER THAT, AS I WILL GO INTO IN A
27 MOMENT, A VERY IMPORTANT NEW CONSIDERATION BECAUSE JUDGE
28 COLE AT THE TIME THAT HE ORIGINALLY RULED ON THIS MATTER, ON

1 THE PRELIMINARY INJUNCTION ITSELF, FOUND HIMSELF IN A
2 PROCESS WHERE THERE WAS VERY RAPID PLEADINGS FILED SHORTLY
3 AFTER THE CASE HAD BEEN FILED AND THE MATTER HAD NOT REALLY
4 BEEN SORTED OUT.

5 WE HAVE MOVED --

6 THE COURT: WASN'T IT SORTED OUT AT A SUBSEQUENT TIME
7 BY A MOTION TO MODIFY, MR. LITT?

8 MR. LITT: NO.

9 THE ISSUE THERE, I DON'T THINK, WAS BRINGING
10 BACK THE DOCUMENTS.

11 THE COURT HAD ALREADY RULED, AND THAT MOTION TO
12 MODIFY OR CLARIFY ONLY DEALT WITH THE PROCEDURE UNDER THE
13 ESTABLISHED SET, THAT THE DOCUMENTS WERE IN THE COURT.

14 THE COURT: GRANTED.

15 BUT I MEANT ONLY BY THAT THAT IT CAME BACK AND
16 THAT MAYBE HE DEALT ONLY WITH THE PROCEDURE AS A PROTECTIVE
17 ORDER TYPE OF A PROCEDURE.

18 NEVERTHELESS, IT WAS ADDRESSED BY JUDGE COLE AT
19 A SUBSEQUENT TIME AND ALBEIT IN THE CONFINES OF A PROTECTIVE
20 ORDER TYPE OF THING, LIMITING USE AND ACCESS TO THESE.

21 MR. PETERSON: BUT NO PARTY ASKED JUDGE COLE AT THAT
22 TIME.

23 THE JUDGE DID NOT ASK, JUDGE COLE --

24 AND MRS. HUBBARD WAS NOT IN THE CASE.

25 -- TO RETURN THE DOCUMENTS AT THAT POINT.

26 THAT FACT WAS THE PREMISE FROM WHICH JUDGE COLE
27 WAS OPERATING IN THE HEARING TO WHICH YOU ARE REFERRING,
28 YOUR HONOR.

1 SO I WISH TO EMPHASIZE THAT SINCE, BASICALLY,
2 THE CASE WAS FIRST FILED AND NOW THAT DISCOVERY HAS BEEN
3 DONE AND MRS. HUBBARD IS NOW IN THE CASE, THERE HAS BEEN NO
4 CONSIDERATION BY A COURT OR BY JUDGE COLE ON THE QUESTION OF
5 WHETHER OR NOT THE DOCUMENTS SHOULD IN FACT BE RETURNED
6 BECAUSE IT HAS NOT BEEN RAISED AS AN ISSUE.

7 THE COURT: HAS THERE BEEN ANY SIGNIFICANCE ADDED BY
8 MRS. HUBBARD COMING IN AS THE INTERVENOR?

9 FROM THE LANGUAGE THAT JUDGE COLE STATED WHEN
10 HE SAID, "I'M IMPRESSED WITH THE ARGUMENT THAT MR. ARMSTRONG
11 SAVED THESE DOCUMENTS FROM DESTRUCTION BECAUSE MR. HUBBARD
12 THOUGHT THAT THE FEDS WERE AFTER HIM," AND THEN HE GOES ON
13 TO SAY, "SOMEBODY SAID WE'VE GOT TO BURN THE EVIDENCE OR
14 DESTROY IT," AND NOW JUDGE COLE SAYS IN SOME PLACE, "THESE
15 DOCUMENTS WERE AT GILLMAN HOT SPRINGS, AND MR. ARMSTRONG WAS
16 OUT THERE BUSILY WORKING ON THIS AND CAME ACROSS THESE
17 DOCUMENTS AND SAID, 'HEY THIS HAS HISTORICAL
18 SIGNIFICANCE'" --

19 MR. PETERSON: I THINK THERE ARE SOME NEW THINGS.

20 ONE, THERE IS DECLARATION FROM BRENDA BLACK
21 WHICH CALLS INTO QUESTION THE ACCURACY OF THAT STATEMENT AND
22 THE ACCURACY OF THE WHOLE ISSUE OF WHETHER OR NOT ANYBODY
23 WAS EVER INTENDING TO DESTROY MR. HUBBARD'S PERSONAL
24 STORAGE, WHICH WE CONTEST QUITE STRONGLY.

25 THAT IS, I THINK, ONE POINT.

26 JUDGE COLE ASSUMED THAT THIS HAD IN FACT
27 OCCURRED.

28 THERE IS A CONTESTED FACT HERE.

1 SECONDLY, THERE IS A CERTAIN ANOMALY IN JERRY
2 ARMSTRONG, WHO WAS AN EMPLOYEE OF THE CHURCH OF SCIENTOLOGY
3 OF CALIFORNIA, AND EVEN IF WE ASSUME THAT HE, AS AN
4 EMPLOYEE, SAVED THESE DOCUMENTS FROM DESTRUCTION, IT WAS NOT
5 JERRY ARMSTRONG, THE INDIVIDUAL.

6 HE NEVER WOULD HAVE BEEN AT GILLMAN HOT
7 SPRINGS.

8 IT WAS EMPLOYEES OF THE CHURCH OF SCIENTOLOGY
9 WHO SAVED THAT, IF WE ACCEPT THE SCENARIO OF MR. ARMSTRONG.

10 MR. ARMSTRONG NOW STEPS BACK AND TREATS HIMSELF
11 AS AN INDIVIDUAL APART FROM THE SETTING IN WHICH HE WAS.

12 THE ONLY REASON HE EVER HAD CONTACT WITH
13 MR. HUBBARD'S PAPERS --

14 AND HE CONCEDES THAT THEY ARE MR. HUBBARD'S
15 PAPERS AND MRS. HUBBARD'S PAPERS, AND IN SOME INSTANCES THE
16 CHURCH'S.

17 -- IS BECAUSE OF HIS RELATIONSHIP TO THEM.
18 AND YET SOMEHOW -- AND THE DOCUMENTS WERE NOT
19 IN FACT DESTROYED --

20 THAT WE KNOW.

21 -- AND NOT BECAUSE OF ANY COURT INTERVENTION
22 AND NOT BECAUSE OF THE PUBLIC INTEREST, BUT BECAUSE THE
23 CHURCH ITSELF DID NOT DESTROY THEM.

24 I THINK THAT THAT IS CLEAR BECAUSE
25 MR. ARMSTRONG WAS ONLY THERE EITHER UNDER HIS THEORY AS AN
26 AGENT OF MR. HUBBARD OR -- THOUGH NOT AT THIS STAGE -- OR AS
27 AN EMPLOYEE OF THE CHURCH.

28 SECONDLY, MRS. HUBBARD HAD SPOKEN TO THE POINT

1 SPECIFICALLY THAT THERE WAS NO AUTHORITY GIVEN THAT ANYBODY
2 THAT DID DO THAT DID IT WITHOUT PERMISSION, WERE NOT
3 SUPPOSED TO DO IT, AND THAT SHE IS NOW AWARE OF THAT
4 PROBLEM.

5 THE COURT: ARE HER COMMENTS AND STATEMENTS SUSPECT
6 AS CONTENDED BY THE DEFENDANT BECAUSE OF HER CONVICTION AS A
7 FELON?

8 MR. LITT: NO.

9 SHE DOES HAVE A CONVICTION OF ONE COUNT, AN
10 OBSTRUCTION OF JUSTICE COUNT, CONSPIRACY TO OBSTRUCT
11 JUSTICE.

12 I HAVE NOT REFERRED TO THE QUESTION OF
13 IMPEACHMENT, TO WHAT EXTENT THAT IS IMPEACHMENT. I DON'T
14 SEE THAT IT IS PARTICULARLY GOOD IMPEACHMENT UNDER NORMAL
15 STANDARDS, FIRSTLY.

16 SECONDLY, WHAT IS MRS. HUBBARD'S INTEREST HERE
17 IN DISTORTION?

18 WE HAVE TO REMEMBER WHAT WE ARE DEALING WITH.
19 WE ARE DEALING WITH THE PRIVATE PAPERS OF MR. HUBBARD AND
20 MRS. HUBBARD.

21 THE COURT SHOULD UNDERSTAND THE NATURE OF THOSE
22 PAPERS. I KNOW THAT THE --

23 THE COURT: I DO BECAUSE YOU HAVE LAID OUT VERY
24 DISTINCTLY PAGE AFTER PAGE, SEVERAL PAGES OF THEM IN
25 MRS. HUBBARD'S STATEMENT, WHERE THEY CAME FROM, WHAT THEY
26 WERE.

27 I LOOKED AT THOSE VERY CAREFULLY. I THINK YOU
28 HAD TWO OR THREE PAGES.

1 MR. LITT: YES, WE DID, YOUR HONOR. THOSE ARE
2 PRIVATE PAPERS, PERSONAL DOCUMENTS.

3 THERE IS A DISPUTE OVER HOW THEY EVER ENDED UP
4 BEING DEALT WITH THE WAY THEY WERE DEALT WITH.

5 I CAN SAY THIS MUCH NOW: MRS. HUBBARD IS VERY
6 UNHAPPY ABOUT IT AND WANTS TO STOP THE KIND OF INTRUSION
7 INTO HER PRIVATE LIFE AND INTO HER HUSBAND'S PRIVATE LIFE
8 THAT HAS BEEN UNAPPRECIATED.

9 THE COURT: WITH THE PROTECTIVE ORDER JUDGE COLE HAS,
10 WITH THE THE FACT THEY HAVE BEEN IN THE POSSESSION OF THE
11 COURT FOR EIGHT MONTHS, THE THINGS YOU SEEM TO SAY MIGHT
12 HAPPEN REALLY HAVEN'T HAPPENED FROM WHAT I CAN SEE BY THE
13 RECORD AS PRESENTED TO ME, THAT IT IS AN INTRUSION AND
14 DISSEMINATION OF THIS INFORMATION, AND YOU POINT OUT THE
15 NUMBER OF LAWSUITS --

16 I THINK 18 LAWSUITS AT THE HANDS OF ONE PERSON.

17 -- BUT THE FEARS THAT YOU HAVE EXPRESSED DO NOT
18 SEEM TO HAVE CRYSTALIZED, AND PARTICULARLY, I NOTE, IN THE
19 PROTECTIVE ORDER ASPECT WHERE JUDGE COLE LIMITED THIS TO
20 THIS LITIGATION AND ONLY TO OTHER LITIGATION WHEN THERE IS A
21 REALLY CLEAR SHOWING.

22 MR. LITT: LET ME START WITH THE FACT THAT THERE IS
23 UNLIMITED ACCESS TO THE -- ALL THE PARTIES AND THEIR
24 COUNSEL.

25 MR. ARMSTRONG IS QUITE HOSTILE TO MR. AND
26 MRS. HUBBARD.

27 MR. ARMSTRONG'S COUNSEL IS COUNSEL FOR SEVERAL
28 OTHER PEOPLE SUING MR. AND MRS. HUBBARD AND THE CHURCH.

1 THEY HAVE COMPLETE AND UNLIMITED ACCESS, AND THE SAME TO A
2 CERTAIN EXTENT APPLIES TO THE CHURCH.

3 THE ARRANGEMENT MRS. HUBBARD HAS WITH THE
4 CHURCH IF THESE DOCUMENTS ARE RETURNED IS THAT NO ONE,
5 INCLUDING ANYONE FROM THE CHURCH, MAY LOOK AT THESE
6 DOCUMENTS WITHOUT PRIOR PERMISSION.

7 THE COURT: OTHER THAN THE FACT THAT YOU NOW HAVE
8 MRS. HUBBARD AS AN INTERVENOR, HAVE THERE BEEN ANY CHANGES
9 YOU CAN SHOW ME?

10 MR. LITT: YES, I THINK THERE HAS BEEN A SECOND
11 CHANGE.

12 THE COURT: FROM THE TIME OF JUDGE COLE'S ORDER?

13 MR. LITT: YES. THE LETTER FROM MR. HUBBARD.

14 THE COURT: WELL --

15 MR. LITT: THE COURT HAS POINTED OUT JUDGE COLE SAID
16 THIS IS NOT A MOTION BUT IT IS EVIDENCE AND IT IS EVIDENCE
17 WE ARE ENTITLED TO RELY ON.

18 THERE HAS BEEN NO DISPUTE ABOUT ITS
19 AUTHENTICITY. WHEN IT WAS SUBMITTED TO THE COURT --

20 AND IT IS IN THE FILE OF THIS COURT.

21 -- IT WAS AUTHENTICATED AS TO HANDWRITING, AS
22 TO TIME AND AS TO FINGERPRINT.

23 THERE IS NO QUESTION BUT THAT THAT IS A LETTER
24 IN THE HANDWRITING OF MR. HUBBARD EXPRESSING HIS DESIRES,
25 AND THERE HAS NOT BEEN A CHALLENGE TO ITS ADMISSIBILITY AS
26 EVIDENCE.

27 ALL THAT JUDGE COLE DID WAS SAY, "THIS IS JUST
28 A LETTER; IT IS NOT A MOTION."

1 WE BROUGHT A MOTION SUBSEQUENTLY JOINTLY BY
2 MRS. HUBBARD AND THE CHURCH.

3 I THINK THAT IS OF GREAT SIGNIFICANCE BECAUSE
4 MR. ARMSTRONG SAID FROM DAY 1 HE IS JUST PROTECTING THEM
5 FROM MR. HUBBARD.

6 MR. HUBBARD SPOKE ON THE POINT AND EXPRESSED
7 HIS DESIRES AND INTENTIONS WITH RESPECT TO THE DOCUMENTS.
8 THAT WAS NOT EVIDENCE BEFORE JUDGE COLE.

9 IT IS ADMISSIBLE EVIDENCE. IT IS UNCONTESTED
10 EVIDENCE.

11 THE DEFENDANT IN THIS CASE --

12 THE COURT: WERE THERE ORIGINALS OF THAT DOCUMENT? I
13 THINK THERE WAS A TYPED VERSION.

14 MR. LITT: THE ORIGINAL WAS FILED WITH THE COURT.
15 THE ORIGINAL HANDWRITTEN VERSION IS IN THE FILE OF THIS
16 COURT WITH THE ORIGINAL THUMBPRINT OR FINGERPRINT OF
17 MR. HUBBARD, AND ALONG WITH IT WERE FILED THE AFFIDAVITS OF
18 AUTHENTICITY.

19 THE COURT: MISS DRAGOJEVIC, WILL YOU ADDRESS THESE
20 TWO POINTS WHICH APPARENTLY MR. LITT EMPHASIZES?

21 MR. LITT: I HAVE ONE MORE POINT, YOUR HONOR

22 THE COURT: I WOULD LIKE TO HEAR FROM HER ON THIS,
23 THAT IS, THE POINT OF THE INTERVENTION BY MRS. HUBBARD AND
24 THE QUESTION OF THE LETTER FROM L. RON HUBBARD DATED
25 FEBRUARY 3RD, 1983.

26 MS. DRAGOJEVIC: YOUR HONOR, I BELIEVE THAT JUDGE
27 COLE GAVE CAREFUL CONSIDERATION TO WHAT HE WAS GOING TO DO
28 WITH THE DOCUMENTS WHEN WE FIRST WERE HERE ON A PRELIMINARY

1 INJUNCTION.

2 I DON'T THINK THE FACT THAT MARY SUE HUBBARD
3 HAS NOW INTERVENED IN THIS CASE WOULD HAVE CHANGED HIS
4 PERCEPTION OF HOW THE DOCUMENTS SHOULD BE SAFEGUARDED AND
5 ALSO IN WHAT MANNER THE DOCUMENTS COULD BE SUBJECT TO
6 DISCOVERY.

7 I THINK WE SUFFICIENTLY SHOWED TO JUDGE COLE,
8 AND I BELIEVE WE HAVE SUFFICIENTLY PRESENTED TO THIS COURT
9 THAT MR. ARMSTRONG DOES HAVE SOME POSSESSORY INTEREST IN THE
10 DOCUMENTS.

11 THAT QUESTION IS AN ULTIMATE QUESTION TO BE
12 DECIDED AT THE TIME OF TRIAL.

13 HOWEVER, IN THE MEANTIME, THESE DOCUMENTS HAVE
14 TO BE SAFEGUARDED, AND I THINK THAT THAT WAS JUDGE COLE'S
15 DECISION. HE REQUIRED THE DOCUMENTS TO REMAIN STATUS QUO.
16 HE WISHED THE DOCUMENTS TO BE SAFEGUARDED, AND I THINK THAT
17 DURING THESE PAST EIGHT MONTHS HIS DESIRES THAT THE
18 DOCUMENTS BE SAFEGUARDED HAS BEEN FOLLOWED THROUGH.

19 AS I INDICATED IN MY PAPERS, THERE IS NOW AN
20 EXTREMELY LENGTHY AND INVOLVED PROCEDURE BY WHICH A THIRD
21 PARTY CAN DISCOVER THE DOCUMENTS.

22 AND AS I FURTHER INDICATED IN MY PAPERS, THAT
23 PARTICULAR ORDER WAS AUTHORED BY THE CHURCH OF SCIENTOLOGY
24 OF CALIFORNIA ATTORNEYS, AND I THINK THAT SHOULD THEY HAVE
25 QUESTIONED JUDGE COLE'S ORDER AT ANY TIME, THEY COULD HAVE
26 FILED ANOTHER MOTION TO RECONSIDER.

27 HOWEVER, NOW THEY ARE COMING IN AND SAYING THEY
28 WANT A MODIFICATION BASED UPON THE FACT THERE IS A NEW

1 PARTY.

2 I DON'T SEE ANY CHANGE IN THE STATUS OF THIS
3 CASE, ANY NEW FACTS THAT WOULD INDICATE THAT THE DOCUMENTS
4 SHOULD BE RETURNED TO THE CHURCH.

5 IN FACT, JUDGE COLE'S ORDER SPECIFICALLY STATED
6 THAT -- EXCUSE ME.

7 JUDGE COLE, IN HIS ANNOUNCEMENT DURING THE
8 HEARING INDICATED THAT HE DID NOT WANT THEM RETURNED TO THE
9 CHURCH BUT RATHER THEY SHOULD REMAIN WITH THE COURT.

10 AS FOR THE LETTER FROM MR. HUBBARD, I, FOR ONE,
11 FEEL THAT THE MANNER IN WHICH THE LETTER CAME INTO BEING IS
12 OF VERY QUESTIONABLE NATURE.

13 THERE WAS A PEN WITH SOME KIND OF MAGIC INK IN
14 IT, AND SOMEHOW THIS PEN WITH MAGIC INK IN IT GOT TO
15 MR. HUBBARD AND WAS PICKED UP BY AN ATTORNEY WHO THEN
16 DELIVERED IT TO A PERSON WHO WAS GOING TO AUTHENTICATE IT;
17 AND FROM THERE, IT GOT BROUGHT THE COURT.

18 AND I THINK THAT JUDGE COLE HAS INDICATED IN A
19 LETTER TO ALL COUNSEL THAT IF MR. HUBBARD WANTS SOMETHING TO
20 HAPPEN IN THIS CASE, HE HAS GOT TO MAKE AN APPEARANCE.

21 HE DIDN'T INDICATE THAT MARY SUE HUBBARD SHOULD
22 MAKE AN APPEARANCE ON HIS BEHALF.

23 AND I THINK THE LETTER DOESN'T INDICATE THAT
24 MARY SUE HUBBARD SHOULD MAKE AN APPEARANCE ON MR. HUBBARD'S
25 BEHALF.

26 I THINK THE COURT IS CONCERNED THAT SHOULD
27 MR. HUBBARD WANT A RETURN OF HIS DOCUMENTS, HE SHOULD MAKE
28 THAT APPEARANCE HIMSELF.

1 THE COURT: THAT SEEMED TO BE THE INTENT, MR. LITT,
2 THAT I GOT FROM JUDGE COLE'S ORDER AND THAT HE SAID TWO
3 THINGS, TRUE. HE SAID THAT THESE ATTORNEYS WERE NOT AT THAT
4 TIME THE ATTORNEYS OF RECORD, AND HE SAID IF ANYTHING SHOULD
5 BE DONE IT SHOULD BE DONE BY MOTION SO THAT THE PARAMETERS
6 OF DETERMINING THE AUTHENTICITY --

7 MR. LITT: AND ANY PARTY IS FREE TOO MAKE USE OF THIS
8 IN WHATEVER WAY HE DETERMINES AND MISS DRAGOJEVIC HAS NEVER
9 TRIED TO CONTEST THE AUTHENTICITY OF THE LETTER.

10 THEY GAVE THE NAMES --

11 THEY WERE SUBMITTED RIGHT ON THE DAY THIS WAS
12 GIVEN.

13 -- OF THE EXPERTS. THERE IS NO QUESTION --
14 THERE IS NO QUESTION, YOUR HONOR, THAT IT COMES FROM
15 MR. HUBBARD.

16 IN THIS FILE IT IS A SIMPLE FACT THAT L. RON
17 HUBBARD SENT THE LETTER TO THIS COURT EXPRESSING CERTAIN
18 DESIRES AND INTENTIONS WITH RESPECT TO THESE DOCUMENTS.
19 THERE IS NO OTHER FACT THAT CAN BE DRAWN FROM THE FILE AS IT
20 STANDS.

21 MR. ARMSTRONG'S COUNSEL HAD THE OPPORTUNITY TO
22 HAVE AUTHENTICATIONS, EVEN TO QUESTION THEIR AUTHENTICITY,
23 TO CROSS-EXAMINE THE EXPERTS THAT WERE USED TO ESTABLISH ITS
24 AUTHENTICITY.

25 IF IT IS CLEARLY FROM MR. HUBBARD, THEN THE
26 QUESTION BECOMES --

27 THE COURT: EVEN LOOKING AT THAT LETTER, THE APPROACH
28 IS THAT SOMEBODY HAS TO BRING IT UP IN SOME FORM THAT IS

1 PROPERLY PRESENTED TO THE COURT.

2 I THINK THAT IS WHAT JUDGE COLE IS SAYING
3 BECAUSE THERE ARE MISUNDERSTANDINGS THAT MIGHT BE ENGENDERED
4 FROM IT.

5 FOR EXAMPLE I STARTED OUT MAKING A COMMENT:
6 WHAT IS RETURN TO THE CHURCH?

7 I KNOW YOU MAKE THE ARGUMENT THAT RETURN TO THE
8 CHURCH CAN ONLY MEAN IN THIS CASE THE CHURCH OF SCIENTOLOGY
9 OF CALIFORNIA.

10 ISN'T THAT THE ARGUMENT THAT YOU ARE MAKING?

11 MR. LITT: SINCE IT IS THE ONLY PARTY.

12 SCIENTOLOGY IS A UNIFIED ECCLESIASTICAL SYSTEM,
13 YOUR HONOR. THEY ARE SEPARATE CORPORATE ENTITIES.

14 "THE CHURCH" REFERS TO WHATEVER IS APPROPRIATE,
15 THE CHURCH OF SCIENTOLOGY. I DON'T THINK THERE IS ANY OTHER
16 CONSTRUCTION THAT CAN BE PUT ON IT.

17 THE COURT: I READ THE TRANSCRIPT BEFORE JUDGE COLE
18 AND, AGAIN, READ ALL OF THESE PAPERS.

19 THE ONLY SIGNIFICANCE IS THIS ONE LETTER THAT
20 HAS BEEN ADDED. AND I DON'T THINK THAT THE INTEREST OF THE
21 PARTIES OR THE INTEREST OF THE PUBLIC HAS BEEN OR WILL BE,
22 FROM THE BEST I CAN SEE, HARMED BY KEEPING THESE DOCUMENTS
23 WITH THE CLERK UNDER THE ORDERS THAT ARE SET OUT BY JUDGE
24 COLE.

25 MR. LITT: YOUR HONOR, THERE WERE -- I WANT TO SPEAK
26 TO THE QUESTION OF THE INTERESTS OF THE PUBLIC AND ONE OTHER
27 NEW FACT.

28 THE OTHER NEW FACT IS THAT MR. GARRISON'S

1 CONTRACT -- AND UNFORTUNATELY MR. GARRISON HAS REFUSED TO
2 ALLOW US TO TAKE HIS DEPOSITION; SO WE DON'T HAVE IT IN THE
3 RECORD, ALTHOUGH HE HAS BEEN AVAILABLE TO MR. ARMSTRONG.

4 AND WE DO HAVE SOME OBJECTION TO THE
5 DECLARATION FILED BY MR. GARRISON, NOT IN AND OF ITSELF, BUT
6 BECAUSE WE HAVE BEEN TRYING AND HAVE BEEN UNABLE TO TAKE HIS
7 DEPOSITION.

8 WHEN WE TAKE HIS DEPOSITION, IT WILL BE
9 ESTABLISHED THAT MR. GARRISON CONSIDERS HIS CONTRACT TO
10 WRITE THE BIOGRAPHY OF MR. HUBBARD OVER, VOID, DEAD, NULL
11 WITHOUT QUESTION.

12 I HAVE SPOKEN WITH MR. GARRISON ON THAT
13 SUBJECT, AND HE TOLD ME WORDS TO THAT EFFECT. I HAVE NOT
14 BEEN ABLE TO ARRANGE HIS DEPOSITION.

15 NOW, THE COURT KEEPS REFERRING TO THE INTERESTS
16 OF THE PUBLIC. I DON'T QUITE UNDERSTAND HOW A PRIVATE
17 DISPUTE BETWEEN A FORMER EMPLOYEE WHO TAKES DOCUMENTS IN THE
18 CAPACITY OF WORKING, SOMEBODY ELSE'S DOCUMENTS, BECOMES A
19 SUBJECT OF PUBLIC INTEREST.

20 THE COURT: YOU THINK BECAUSE OF THE SHEER NATURE OF
21 THE LITIGATION THAT HAS BEEN ENGENDERED AND THE IDEA THAT
22 THEY MIGHT BE DESTROYED AS SHOWN BEFORE JUDGE COLE HAS SOME
23 INTEREST TO THE PUBLIC THAT THE COURT SYSTEM MAY WANT TO
24 PROTECT?

25 MR. LITT: THE COURT MAY HAVE AN INTEREST -- THE
26 COURT HAS AN INTEREST BECAUSE MATTER IS IN LITIGATION.

27 BUT THE PUBLIC -- IF THERE IS ANYBODY THAT HAS
28 A CLAIM TO THESE DOCUMENTS, LET THEM COME INTO THIS COURT

1 AND INTERVENE. OTHERWISE, THIS IS A PRIVATE -- IT IS
2 PROPERTY THAT MR. ARMSTRONG STATES IS NOT HIS.

3 THE COURT: THERE HAS BEEN AT LEAST SHOWN SOME
4 POSSESSORY RIGHT OF MR. ARMSTRONG, AND HE HAS SAID, AND I
5 THINK JUDGE COLE CLEARLY STATED THAT THERE WAS A POSSESSORY
6 RIGHT OF BY VIRTUE OF THIS AGREEMENT.

7 I DON'T SEE TOO MUCH CHANGE THAT HAS OCURRED,
8 MR. LITT.

9 I THINK YOU ARE REARGUING THIS CASE.

10 MR. LITT: I DON'T THINK I AM BECAUSE THE PASSAGE OF
11 TIME HAS CLARIFIED THE TWO THEORIES OF THE RIGHT TO
12 POSSESSION THAT MR. HUBBARD HAS.

13 IT'S EIGHT MONTHS LATER. MR. ARMSTRONG IS NOW
14 A CLEAR ANTAGONIST OF L. RON HUBBARD.

15 HE HAS SPOKEN IN VARIOUS PUBLIC FORUMS THAT
16 L. RON HUBBARD IS A FRAUD. HE HAS A CONTINUING AGENCY WITH
17 MR. HUBBARD THAT HE TAKES POSSESSION ON MR. HUBBARD'S
18 BEHALF.

19 THAT IS THE THEORY. IT IS INCONCEIVABLE.

20 THE COURT: THE ONLY THING IS MY JOB HERE TODAY IS TO
21 DETERMINE WHETHER THERE IS A RIGHT OF POSSESSION THAT SHOULD
22 BE CHANGED IN ANY RESPECT FROM AN ORDER OF THIS COURT THAT
23 WAS SERIOUSLY AND SOBERLY CONSIDERED, AND I DON'T THINK
24 THERE HAS BEEN THAT SHOWN.

25 MR. LITT: WHETHER THERE IS A RIGHT OF POSSESSION
26 NOW, IT IS EIGHT MONTHS LATER.

27 MR. ARMSTRONG HAD NOT APPEARED ON NATIONAL T.V.
28 SAYING L. RON HUBBARD IS A FRAUD. HE HAS NOW.

1 MR. HUBBARD AND HAS BEEN ASKED TO TALK ABOUT THOSE SUBJECTS
2 DOES NOT NEGATE THAT HE WON'T OR STILL PRESENTLY HAS AN
3 AGENCY RELATIONSHIP WITH MR. HUBBARD.

4 I DON'T THINK THAT IS THE ISSUE HERE.

5 I THINK THE ISSUE HERE IS WHAT WE HAVE BEEN
6 DISCUSSING BEFORE, AND THAT IS ANY PROBLEM OF INTRUSION INTO
7 THESE DOCUMENTS WHILE THEY ARE BEING SAFEGUARDED IN THIS
8 COURT.

9 AND I DON'T BELIEVE THERE HAS BEEN ANY EVIDENCE
10 PRESENTED THAT ANY INTRUSION HAS OCCURRED. I DON'T THINK
11 THERE ARE ANY FACTS THAT COUNSEL CAN POINT TO THAT ANY
12 INTRUSION HAS OCCURRED.

13 AND I THINK THAT THESE DOCUMENTS ARE IN THE
14 SAFEST PLACE REMAINING WITH THIS COURT UNDER SEAL.

15 THE COURT: JUDGE COLE'S ORDER WAS ON OCTOBER 4TH,
16 1982, THAT THEY WOULD BE KEPT WITH THE CLERK WITH THE RIGHT
17 OF COUNSEL FOR THE PARTIES IN THIS LITIGATION OR A
18 REPRESENTATIVE TO INSPECT.

19 HE SAID THE INSPECTION COULD ONLY BE FOR THE
20 PURPOSE OF THIS LITIGATION AND THAT THERE SHOULD BE NO
21 DISSEMINATION, PUBLICATION OR OTHERWISE OF THE INFORMATION.

22 I THINK THAT JUDGE COLE'S ORDER IS APPROPRIATE
23 AND CAREFULLY PHRASED AND SHOULD NOT BE MODIFIED. NOTHING
24 HAS PURSUADED ME THAT THERE SHOULD BE ANY CHANGE IN ANY
25 RESPECT.

26 I THINK THE RIGHTS OF ALL PARTIES ARE
27 ADEQUATELY PROTECTED, AND AS FAR AS RIGHTS OF POSSESSION ARE
28 CONCERNED, I THINK IT IS JUST AS MUCH SHOWN RIGHTS OF

1 POSSESSION IN MR. ARMSTRONG BY VIRTUE OF THE FACT THAT HE
2 ORIGINALLY GOT THESE UNDER THIS AGREEMENT TO COOPERATE WITH
3 THE WRITER IN THIS WRITING.

4 MR. PETERSON: THAT IS YOUR HONOR'S INTERPRETATION.

5 COUNSEL FOR MR. ARMSTRONG DIDN'T EVEN PUT THAT
6 ARGUMENT FORTH.

7 SHE SAID, "I DON'T THINK WE ARE HERE TO DISCUSS
8 POSSESSION," AND THAT IS ENTIRELY ON THE COURT BECAUSE SHE
9 FILES ALL OF THESE IRRELEVANT DOCUMENTS.

10 JUDGE COLE WAS SO CONFUSED, WAS SO IRATE THAT
11 HE DIDN'T UNDERSTAND THE FACTUAL SITUATION, AND A LOT HAS
12 CHANGED.

13 WHAT HAS CHANGED IS DISCOVERY HAS CHANGED.

14 WE HAVE THE PARTY THAT JUDGE COLE SAID WAS THE
15 TRUE OWNER OF THE DOCUMENTS COMING FORTH IN A DOCUMENT THAT
16 IS NOT DISPUTED.

17 AND A LOT HAS CHANGED, AND THE COURT IS MISSING
18 IT ALL.

19 THE COURT: MR. PETERSON, I THINK THAT, FIRST OF ALL,
20 THESE DOCUMENTS ARE SEALED DOCUMENTS.

21 I THINK THAT THE DEFENDANT HAS SOME POSSESSORY
22 INTEREST IN IT BECAUSE OF THIS CONTRACTUAL RELATIONSHIP.

23 MR. PETERSON: BUT THERE HAS BEEN NO FACT PROVED.

24 THE COURT: MR. PETERSON --

25 MR. LITT: MAY I MAKE ONE POINT?

26 MR. ARMSTRONG IS NOT WORKING ON THE BIOGRAPHY
27 AS FAR AS I KNOW. HE IS NOT PRESENTLY WORKING ON IT.

28 SO UNDER WHAT CONTRACTUAL RELATIONSHIP DOES HE

1 CONTINUE TO HAVE A CLAIM OF POSSESSION?

2 THE COURT: I THINK JUDGE COLE'S ORDER WAS CAREFULLY
3 PREPARED AND DRAFTED, AND I SEE NO NEED OR BASIS IN THE
4 DOCUMENTS PRESENTED TO CHANGE IT.

5 I'M GOING TO DENY IT.

6 MR. LITT: YOUR HONOR, I WOULD LIKE TO SEE IF WE CAN
7 GET SOME HELP FROM THE COURT ON THIS MATTER THAT I RAISED
8 BEFORE.

9 THERE HAS BEEN A DECLARATION BY MR. GARRISON
10 FILED. MR. GARRISON IS NOT ALLOWING US TO SERVE HIM. WE
11 CANNOT FIND OUT WHERE HE IS.

12 I GATHER THAT MR. ARMSTRONG IS ABLE TO GET
13 ACCESS TO HIM.

14 PERHAPS COURT COULD ASK MISS DRAGOJEVIC --

15 THE COURT: YOU HAVE TO DO WHATEVER YOU NEED DO
16 THROUGH A NORMAL DISCOVERY PROCESS. I DON'T KNOW WHAT
17 RIGHTS YOU HAVE.

18 DO YOU HAVE ANY POWER?

19 MS. DRAGOJEVIC: I DON'T REPRESENT HIM, YOUR HONOR.

20 MR. LITT: IT IS NOT A QUESTION OF POWER. HE SIGNED
21 A DECLARATION FOR THEM. THEY HAVE ACCESS.

22 THE COURT: I THINK WHATEVER RIGHTS YOU HAVE WOULD
23 HAVE TO BE THROUGH DISCOVERY.

24 MR. PETERSON: DO WE TAKE THE DEPOSITION OF
25 MISS DRAGOJEVIC AND FIND THE ADDRESS OF THIS THIS PERSON?

26 THE COURT: I'M NOT GOING TO ANSWER THAT.

27 MS. DRAGOJEVIC: I DON'T THINK YOU'LL FIND YOUR
28 INFORMATION.

1 THE COURT: YOU GIVE NOTICE.

2 MS. DRAGOJEVIC: YES, YOUR HONOR.

3 THE COURT: THANK YOU.

4
5 (PROCEEDINGS CONCLUDED.).

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 85

HON. LEON SAVITCH, JUDGE

CHURCH OF SCIENTOLOGY OF CALIFORNIA,)
)
 PLAINTIFF,)
 VS.)
)
 GERALD ARMSTRONG, DOES 1 THROUGH 10,)
 INCLUSIVE,)
)
 DEFENDANTS.)
 _____)
)
 MARY SUE HUBBARD,)
 INTERVENOR.)
 _____)
)
 AND RELATED CROSS-ACTION.)
 _____)

NO. C 420 153

REPORTER'S
CERTIFICATE

STATE OF CALIFORNIA)
) SS
 COUNTY OF LOS ANGELES)

I, PAT STEVENSON, OFFICIAL REPORTER OF THE
SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF
LOS ANGELES DO HEREBY CERTIFY THAT THE FOREGOING PAGES, 1
THROUGH 21, COMPRISE A FULL, TRUE, AND CORRECT TRANSCRIPT
OF THE PROCEEDINGS REPORTED BY ME ON APRIL 26, 1982.

DATED THIS 5TH DAY OF MAY, 1983.

CSR NO. 1857
OFFICIAL REPORTER

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